

The 13th March, 1995

No. 14/13/87-6Lab./375.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of Transport Commissioner, Haryana, Chandigarh *versus* Vijay Kumar

IN THE COURT OF SHRI S. R. BANSAL (ADDITIONAL DISTRICT AND SESSIONS JUDGE)
PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 213 of 91

WORKMAN, SHRI VIJAY KUMAR SON OF SHRI ATMA RAM, THROUGH PT. MADHU SUDAN
SARAN KAUSHISH, LATHMRAN STREET, JAGADHARI

and

1. THE MANAGEMENT TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH
2. GENERAL MANAGER, HARYANA ROADWAYS, YAMUNA NAGAR.

Present :

WR. Shri Madhu Saran Kaushish.

MR. Shri Mohan Lal, ADA.

AWARD

In exercise of the powers conferred by clause (c) of sub-section 1 of section 10 of the Industrial Disputes Act 1947 (for short called as 'Act'), the Governor of Haryana referred the following dispute between the workman Shri Vijay Kumar and the management (1) Transport Commissioner, Haryana, Chandigarh and (2) General Manager, Haryana, Roadways, Yamuna Nagar to this Court for adjudication,—*vide* Haryana Government notification bearing No. 33105-10, dated the 5th September, 1991 :—

Whether the termination of the services of Shri Vijay Kumar is valid and justified? If not so, to what relief he is entitled?

The workman raised the present dispute by serving a demand notice dated 30th April, 1991 under section 2-A of the Act. On receipt of which Labour-cum-Conciliation Officer took out the conciliation proceedings which yielded no fruitful results. After which the failure report was submitted leading to the making of the present reference to this court by the appropriate government.

On receipt of the reference notices were issued to the workman as well as the management. The workman appeared and stated that his demand notice may be treated as his claim statement. According to the workman he has been working on a permanent job of fitter in the workshop attached with the depot of management and his services were terminated without complying the requirement of section 25-F of the Act. He demanded his reinstatement with continuity of service and back wages.

The management pleaded that the workman was appointed as helper on 15th December, 1970 for the first time and had been working as assistant fitter since 1st March, 1974 and was transferred to Haryana Roadways, Yamuna Nagar Depot on 11th August, 1986 from Ambala Depot. It was pleaded that the workman remained absent from duty on 8th May, 1984 to 15th June, 1984, 2nd June, 1985 to 30th July, 1985, 16th November, 1986 to 5th February, 1987, 23rd March, 1987 to 14th January, 1988 and 7th March, 1988 to 17 August 1988. It was pleaded that Store Purchase Officer was appointed as Enquiry Officer to enquire the charges and the enquiry was conducted according to rules and the workman was given sufficient time to produce evidence in his defence. He did not produce any evidence. After the enquiry the workman was served with a show-case notice but the workman did not choose to reply to the same. Later on the workman was given opportunity of personal hearing and his services were terminated,—*vide* order dated 6th February, 1990 according to rules and there is nothing irregular and unlawful in his termination.

The workman submitted replication controverting the allegations of the management in the written statement filed and reiterating those made in the demand notice/claim statement. On the pleadings of the parties the following issues were laid down for decision :—

- (1) Whether the termination of the services of Shri Vijay Kumar is valid and justified? If not so, to what relief is he entitled? OPP

(2) Whether the workman was terminated pursuant of a valid domestic enquiry? OPM

(3) Relief.

Parties led evidence. I have heard the representatives of the parties. My findings are as under :—

Issue Nos. 1 and 2 :

Both these issues are inter-linked and are being taken up together.

The management produced MW-1 Rulai Ram, Clerk who stated that report Ex. M-1 regarding the absence from duty on the part of workman was received against him on which charge sheet Ex. M-2 was served upon him to which the workman submitted the reply Ex. M-3. He stated that the workman came present on duty on 20th November, 1984,—vide report Ex. M-4 and,—vide Ex. M-5 Enquiry Officer was appointed to fix the enquiry,—vide Ex. M-6 and recorded statement of Raj Pal, Clerk Ex. M-7. He also stated that another enquiry of the absence of workman was fixed on 30th April, 1985 and 17th May, 1985 on which date statement Ex. M-8 was recorded who submitted his enquiry report Ex. M-9. He further stated that chargesheet Ex. M-10 regarding absence from duty for the period from 2nd June, 1985 to 30th July, 1985 was served upon the workman and Ex. M-11 is the reply of the workman to the chargesheet and,—vide Ex. M-12 Enquiry Officer was appointed and,—vide Ex. M-13 Enquiry Officer was changed and the enquiry was fixed on 5th July, 1989 on which date statement of witness was recorded,—vide Ex. M-14 and Enquiry Officer submitted the report Ex. M-15. After the submission of enquiry report showcause notice Ex. M-16 was served upon the workman and,—vide Ex. M-17 opportunity of personal hearing was also given to him. He then stated that the workman was absent from duty from 16th November, 1986 to 5th February, 1987 for which chargesheet Ex. M-18 was served and Enquiry Officer was appointed who recorded the statements of witnesses,—vide Ex. M-19 and further,—vide Ex. M-21. He lastly stated that,—vide Ex. M-22 the Enquiry Officer gave enquiry report in all the five cases on the basis of which showcause notice Ex. M-23 was served and the workman submitted his reply Ex. M-24. After affording opportunity of personal hearing to the workman the services of workman were terminated,—vide order dated 16th February, 1990. In the cross-examination this witness revealed that a copy of report of Enquiry Officer was supplied to the workman. Nothing material or otherwise came out from the cross-examination of this witness. It is thus quite evident that a fair and proper enquiry was conducted against the workman. He was associated with the enquiry at enquiry stage and a proper and adequate opportunity of hearing was affording to him. All the five reports of the Enquiry Officer regarding his absence from duty for the various period show that the charges against the delinquent official stood proved and the management was, thus, left with no alternative but to dispense with the services of the workman. The workman has not stated anything in his statement. He has not produced any circumstance on the file to show that the enquiry conducted against suffered from any informity or illegality. I, therefore, hold that the services of workman were terminated in a proper and legal manner after conducting a valid and fair domestic enquiry against him. The finding on these issues shall, therefore, stand returned against the workman and in favour of the management.

Relief. :

In the end, it is held that the workman is not entitled to any relief.

The reference shall stand returned accordingly.

The 6th February, 1995.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court, Ambala,
Camp at Panchkula.

Endorsement No. 158, dated the 7th February, 1995.

Forwarded (four copies, to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act. 1947.

S. R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court, Ambala,
Camp at Panchkula.